

EXHIBIT 24

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY
BRANCH 1

STATE OF WISCONSIN,

PLAINTIFF,

JURY TRIAL - DAY 24
CLOSING ARGUMENTS, CONTD.
Case No. 05 CF 381

vs.

STEVEN A. AVERY,

DEFENDANT.

DATE: MARCH 15, 2007

BEFORE: Hon. Patrick L. Willis
Circuit Court Judge

APPEARANCES: KENNETH R. KRATZ
Special Prosecutor
On behalf of the State of Wisconsin.

THOMAS J. FALLON
Special Prosecutor
On behalf of the State of Wisconsin.

NORMAN A. GAHN
Special Prosecutor
On behalf of the State of Wisconsin.

DEAN A. STRANG
Attorney at Law
On behalf of the Defendant.

JEROME F. BUTING
Attorney at Law
On behalf of the Defendant.

STEVEN A. AVERY
Defendant
Appeared in person.

TRANSCRIPT OF PROCEEDINGS

Reported by Diane Tesheneck, RPR

Official Court Reporter

1 a question. They are not advocating anything, as
2 far as I could pick up. Or as I say, sort of
3 selling you something, overselling something.
4 They are candid on cross-examination, just as
5 they were on direct examination. I thought, at
6 least, that's what this group of people shared.

7 Was I surprised that we had to call the
8 bus driver, rather than the State calling, to
9 help you with the time frame that afternoon,
10 yeah, I was surprised. But we did it, since they
11 didn't. And now you have got that information.

12 But, you know, these -- these people
13 rang true to my ear, at least. And it's your
14 ears that matter.

15 So let me move to my second question:
16 Can you believe the police? Can you believe the
17 law enforcement folks who are so sure that Steven
18 Avery's guilty? What do you see about their
19 behavior before they are on the stage here?
20 Well, look at what they say and do when they
21 don't know that you are going to be listening and
22 seeing.

23 Let's start with Andy Colborn, since I
24 sort of started with him on November 3. He calls
25 in, does a license check on Teresa Halbach's car.

1 He says he thinks it was probably on November 3,
2 not sure, but probably November 3, that he did
3 that. But remember he's working on November 3,
4 so he would have had his radio.

5 And it's Detective Remiker who says
6 ordinarily you would use your radio when you are
7 calling in a license check to dispatch. He uses
8 his cell phone instead. The tape you hear is
9 clearly a phone call, not a radio in. So I think
10 it's probably more likely that this license check
11 is November 4, when Sergeant Colborn acknowledges
12 he was off.

13 Didn't work on November 4. And you may
14 remember, Mr. Kratz asked him, do you remember
15 what you were doing on November 4, 2005. He
16 says, yes, I do. I was off. I remember what I
17 was doing. Doesn't tell you what he was doing,
18 other than to deny he went to the Avery Salvage
19 yard, or denied he had anything to do with
20 planting evidence. But he is off.

21 And I'm not going to play it for you
22 again, it's in evidence, but -- Let's see if this
23 comes up. That's -- That's what you hear on the
24 tape that we played.

25 SERGEANT COLBORN: Lynn.

1 DISPATCHER: Hi Andy.

2 SERGEANT COLBORN: Can you run Sam,

3 William, Henry, 582, see if it comes back to that

4 da da da da da -- then they start talking over

5 each other. I can't make it out. You can listen

6 to it if you want. Then she goes off on talking

7 about needing a Spanish interpreter, chitty

8 chatting while she's doing the license check.

9 She's comes back and she confirms it's

10 Teresa Halbach's license plate, the missing

11 person.

12 Sergeant Colborn says, '99 Toyota, and

13 so on.

14 Why is he doing that? Why is he doing

15 that? Why is he calling in a license check on

16 November 3, or November 4, which ever day it is?

17 You can get that information from Investigator

18 Wiegert, or if you want to call your dispatcher,

19 ask your dispatcher.

20 This sounds a lot like what road patrol

21 officers do when they come across a stalled car,

22 an abandoned car, a car where it shouldn't be.

23 That's what this sounds like. Draw your own

24 conclusions, obviously look at it like from any

25 other piece of evidence. But what's important is

1 he is doing this, not on a witness stand, he is
2 doing this when he doesn't know anybody is going
3 to be seeing, or hearing, or evaluating it later.

4 Stay -- Move off Sergeant Colborn, but
5 stay in the Manitowoc County Sheriff's Department
6 for the moment. Mr. Kratz argued to you
7 yesterday that Special Agent Fassbender, starting
8 November 5, devoted his resources where this
9 thing was likely going. Where this thing was
10 likely going.

11 True, I guess he did, in the sense that
12 it was certainly clear pretty quickly where this
13 thing, this investigation, was going. In my
14 opening, and with Detective Remiker, we had a
15 chance to hear, at 11:30 in the morning, on
16 November 5, half an hour after the first police
17 officers arrived at the Avery property, there to,
18 you know, see the concealed Toyota that the
19 Sturm's had found. Half an hour later, for you
20 to hear, at a time when he, you know, he wouldn't
21 have known it, Manitowoc detective, Dennis
22 Jacobs, talking to his dispatcher:

23 Can you tell me, do we have a body or
24 anything yet?

25 DISPATCHER: I don't believe so.

1 Very next thing he says:

2 Do we have Steven Avery in custody,
3 though?

4 Yeah, it's pretty clear where this is
5 going. By the time Special Agent Fassbender
6 arrives, you know, at 2:25, 3 hours later that
7 afternoon almost, it's pretty clear where it's
8 going. And five minutes after this one
9 conversation --

10 THE COURT: Mr. Strang, I'm getting a
11 signal for a break, so we're going to take a short
12 break and then we'll resume in 10 minutes.

13 (Jury not present.)

14 THE COURT: You may be seated. Let's
15 report back at 10:15.

16 (Recess taken.)

17 (Jury present.)

18 THE COURT: Mr. Strang, you may resume.

19 ATTORNEY STRANG: Thank you.

20 So five minutes later, five minutes
21 after Detective Jacobs called with the
22 dispatcher, he is on the phone with Detective
23 Remiker, or the radio, I don't remember now, but
24 you got the tape in evidence. Of course,
25 Detective Remiker does testify, and you may

1 remember him, kind of presented himself as
2 someone who thought they were barking up the
3 wrong tree, that Steve didn't do this, when he
4 testifies. That morning, just about an hour
5 after the Sturms have first found the Toyota.

6 Okay. Other than the car, do we have
7 anything else?

8 Not yet.

9 Okay. Is he in custody?

10 ATTORNEY STRANG: It's not who are you
11 talking about, who do you mean by he.

12 Negative, nothing yet.

13 One pronoun, he, and these guys know who
14 they are talking about at 11:35 in the morning.
15 Are these folks acting in a way that seems good
16 faith and honest to you, back then? Six days
17 after this, Special Agent Fassbender makes the
18 telephone call to Sherry Culhane at the Crime
19 Lab, try to give her some direction. And, you
20 know, she's holding herself out as a scientist,
21 that's how she holds herself out.

22 Is Special Agent Fassbender asking for
23 science, on the exhibit that Mr. Buting showed
24 you? Is he asking for science there, for a good
25 cautious, objective, let's see where the science

1 leads us kind of thing, when he's asking, try to
2 put her -- put her in his house or garage.
3 That's not a very good fit, in my view, with the
4 State's, counsel's argument here, when they
5 submit evidence, they are not looking for a
6 specific answer. Oh, really.

7 The memo belies that. The phone memo
8 does. And Sherry Culhane, on the stand, herself,
9 tells you, that by the time these buccal swabs
10 are taken in November, 2005, from all kinds of
11 people other than Steven Avery, members of his
12 family, these are elimination samples.
13 Elimination samples. We have already decided
14 they didn't do it, we're just trying to eliminate
15 if we find their DA -- their DNA anywhere.

16 Sherry Culhane, for that matter, had she
17 followed the protocol on her testing, the bottom
18 line folks, had she followed her protocol on the
19 testing of that bullet found in March. She can't
20 say it's Teresa Halbach's DNA. First time in her
21 career, 23 years, first time, on the last chance
22 to put Teresa Halbach in his house or garage, she
23 deviates from the protocol and includes Teresa
24 Halbach.

25 Now, it was just the control that was

1 contaminated. It was just Sherry Culhane's DNA.
2 That doesn't turn the evidentiary sample into
3 having Teresa Halbach's DNA. Okay. All right.
4 Fine. But the protocol presumably is there for a
5 reason. Protocols are the foundation of good
6 science. And the protocol says, if you have got
7 contamination, you set that experiment aside and
8 you do it again, you don't rely on that one.

9 Science ought to be reliable. It ought
10 to be consistent. And it ought to be cautious,
11 otherwise, it's not science. And the results
12 simply aren't reliable. That's why you have a
13 control. And when you get contamination, you now
14 know that something has gone wrong with this.

15 And to say that the contamination is
16 over here, but not over here, is a little like
17 saying, I don't know, maybe no one even eats TV
18 dinners any more, maybe they're microwave dinners
19 now, I guess, from what I see in the grocery
20 store. But whatever, however you heat this stuff
21 up, when you pull off the plastic, or the tin, or
22 whatever covers the meal, you know, and the
23 little peach cobbler has a fly in it, in that
24 little compartment, you don't eat the Salisbury
25 steak either, okay. You know, this is -- this is

1 not fancy stuff in the end. It's -- It is and
2 should be common sense, at some level, in the
3 end. But she deviates, for the first time in 23
4 years.

5 The end -- This continues, the end of
6 January, 2007, bringing us up to six weeks ago.
7 Now, the State goes all the way to Virginia, to
8 Quantico, to get the FBI. Are they trying -- Is
9 the FBI trying to root out possible police
10 corruption? Are they concerned about the
11 integrity, of policing in northeastern Wisconsin?
12 Trying to find out if there's a bad cop or not?
13 I think the decision is already made.

14 You have this, too, Special Agent Gerald
15 Mullen of the FBI, memo to the FBI laboratory,
16 this January 30th --

17 ATTORNEY KRATZ: Judge, I'm sorry, I don't
18 mean to interrupt. I believe the defense is
19 entitled to one closing. Mr. Buting covered exactly
20 the same territory yesterday. I understood they
21 were going to split and talk about different items.
22 I simply wanted to interpose an objection. My
23 apologies to counsel, but that was my understanding
24 from the Court.

25 ATTORNEY STRANG: I would be more concerned

1 about boring you. Mr. Buting did cover it. It's
2 there.

3 But I want to say something about EDTA
4 that Mr. Buting did not. Janine Arvizu, who is
5 not a doctor, Mr. Buting misspoke, she didn't
6 complete her dissertation. She did the other
7 Ph.D. work. I want to make sure you got out of
8 that what she had to tell you. And it's this,
9 the FBI protocol that they put together in a
10 couple of weeks here, is good for identifying and
11 confirming the presence of EDTA. It is not
12 designed for confirming the absence of EDTA. It
13 has to do with the detection limits. The
14 instrument has a detection limit and the method
15 has a detection limit.

16 So, look, if you were interested in
17 finding out whether your friend is at home, and
18 the instrument you chose was a telephone, call
19 him at his house, ring his telephone number, if
20 he answers the phone, you have confirmed his
21 presence with your instrument. He is there, you
22 have called his home, not his cell phone, he is
23 there. He's got to be, if he's answering his
24 phone. You have confirmed his presence.

25 However, if your instrument is your

1 telephone and you call his home and it just rings
2 and rings, and it's not answered, you have not
3 confirmed his absence. He could be in the
4 shower. He could be in the basement folding the
5 laundry, he could be in bed sleeping. He could
6 be pouting and just not answering the phone
7 because he sees it's you calling on the caller ID
8 and he doesn't want to talk to you today.
9 Whatever it is, you haven't confirmed his absence
10 with the telephone. You haven't designed a
11 protocol to get you to that.

12 Your method, in other words, of
13 detection, isn't suited to confirming absence,
14 only presence. If you like fresh baked hot apple
15 pie, and I put you in a room and I blindfold you
16 and we walk in, a fresh baked hot apple pie, your
17 nose is the instrument. It has a detection
18 limit.

19 A dog has a better instrument, lower
20 detection limit, fancier instrument. He can
21 detect less of the smell of apple pie than you
22 can, but you have got this instrument to use. If
23 it's within your detection limits, and the pie
24 is, you know, slid on the table under you while
25 you are blindfolded, you will detect it with your

1 instrument.

2 However, if the method is no good,
3 because we have got to consider that, you are not
4 smelling an apple pie. Well, is the room too
5 big, are the windows open, is the pie too far
6 away, does the room smell badly of something else
7 that's interfering with your instrument detecting
8 the fresh baked apple pie? We have method
9 detection problems and limits. Or is the apple
10 pie, not fresh baked, but it's an 11 year old
11 apple pie? You may not detect that either, with
12 your instrument. I don't think Janine Arvizu was
13 really telling you more than that. And,
14 unfortunately, Dr. LeBeau was trying to tell you
15 more than that and overselling his case.

16 Now, others who matter, in the law
17 enforcement group who think Steve is guilty.
18 Mr. Lenk and Mr. Colborn. They denied here, of
19 course, but what are they doing, in 2002, when
20 the evidence slip has to be signed for
21 transmission of the hair sample and fingernail
22 clippings, or whatever it is, to the Crime Lab,
23 and the evidence custodian at the time, Detective
24 Sergeant James Lenk, signs off.

25 Is he really, as he claims here, simply

1 signing the form, giving it to Sergeant Shallue
2 and allowing Sergeant Shallue to fill out the
3 otherwise blank form? You are entitled to
4 disbelieve that. Or at least to say he's not an
5 honest evidence custodian if he is doing that at
6 the time. He is begging to be fired, because he
7 is not documenting what's going where. Or if
8 he's just telling you here, to distance himself
9 from that file in the Clerk's Office, you are
10 entitled to consider that too.

11 Would Lieutenant Lenk lie, in the end?
12 Would he lie, as a sworn law enforcement officer?
13 Well, all I can tell you is, he did, twice, and
14 you heard it. I have the transcript from the
15 earlier hearing. Here he says he arrives at
16 2:00. When he's asked under oath before, it's
17 6:30 or 7, once when he's asked, and the other
18 time he's asked, it's late afternoon. This isn't
19 15 minutes off, folks. It's under oath and it's
20 a difference of four and a half or five hours.

21 At that time of year, November, 2005,
22 it's the difference between broad daylight and
23 pitch black. He was under oath, and he gave two
24 very different answers to the same question, at
25 two different times, under oath. He was the only

1 witness, in five weeks, shown to have made
2 inconsistent statements, under oath.

3 Others made inconsistent statements and
4 were shown to have. Blaine Dassey comes to mind.
5 Scott Tadych comes to mind. Both of them are
6 asked, at first, by the police, was there a
7 bonfire, on Halloween, no, no bonfire. Later
8 they get asked again, now there is a bonfire. In
9 fact, Scott Tadych comes here and says big
10 bonfire, flames to the top of the roof. Same
11 guy, again, I showed, when first asked by the
12 police, no bonfire. Closer in time to October
13 31, no, didn't see a bonfire that night.

14 That's inconsistent statements, but they
15 are not under oath. They still, as the Judge
16 instructed you yesterday, are something you can
17 consider, consistency or inconsistency of a
18 witness' statements, over time. Still you can
19 consider those when you decide who you believe,
20 and not under oath.

21 Blaine explained that a little bit.
22 Explained his changes of his story. Well, the
23 police kept asking him. They didn't like the
24 answer, they asked him again. Got angry with him
25 and his mother, at the restaurant, when they

1 wouldn't reject Uncle Steve. Is that because
2 Blaine is scared of Uncle Steve?

3 My recollection, yours will govern,
4 there's 12 of you and one of me, but my
5 recollection of that testimony is that the
6 question was whether Blaine Dassey was scared,
7 and the answer was something like, no, not
8 really, but he used to boss us around. You will
9 decide that.

10 But in any event, Lieutenant Lenk, by
11 the time he gets to you folks, is telling you
12 some really implausible things. Like, I had
13 never been to Steven Avery's house. I have never
14 been on the Avery property, but somehow, just out
15 of habit, I turned right at the end of Avery
16 Road, and I -- I -- I just happened to drive
17 straight to Steven Avery's trailer. Okay.

18 So this -- You know, what they are doing
19 and whether -- whether you think you can trust
20 them back when they are not aware they are going
21 to be observed or revealed later, is important in
22 the same way what he does, back before he knows
23 it's going to be played out to you, is important
24 in assessing who you believe. Are they acting
25 honestly? Is he acting like an innocent person

1 would act, or might act?

2 It is important because it comes down to
3 the bias in the end. You know, would, in the
4 end, police officers plant evidence? And that's
5 a hard one, you know. That's why it's helpful to
6 say, boy, are they behaving honestly and in good
7 faith up to then. Because in the end, would they
8 plant evidence against someone. Now, you will
9 have to decide whether you have a reasonable
10 doubt about that, or whether, you know, we have
11 shown that to you at any level, or not.

12 But, look, it is a matter of bias, if it
13 happened. And what you critically, I think, need
14 to understand, that if and when police officers
15 plant evidence, they are not doing it to frame an
16 innocent man. They are doing it because they
17 believe the man guilty. They are not doing it to
18 frame an innocent man. They are doing it to
19 ensure the conviction of someone they have
20 decided is guilty.

21 That's why you plant evidence. Other
22 than in the strangest, you know, most abandoned
23 of conscience sort of police officer, they aren't
24 after framing an innocent person, they are after
25 ensuring the conviction of someone they just

1 believe is guilty.

2 So as you approach the whole concept of
3 planting you have got to understand the bias that
4 would drive it, not, you know, boy, they are out
5 to get an innocent guy. It's just the opposite.
6 It's just the opposite. But it's also just as
7 corrosive to do it. Because juries decide guilt,
8 not police officers who are involved in the hunt.
9 You know, they get invested too, in the outcome,
10 and in whom they suspect, who they think is good
11 for something.

12 And, you know, the State pooh-poohs the
13 idea that a civil lawsuit, for a whole lot of
14 money, against the Manitowoc Sheriff's
15 Department, would have caused anyone to so
16 dislike Steven Avery that they would plant
17 evidence against him. Well, look what the mere
18 suggestion that they did plant evidence has done,
19 in terms of a reaction here.

20 The defensiveness of the case that the
21 State presented to you, the anger about the mere
22 suggestion of planting evidence, the
23 self-righteousness, the hostility, the trying to
24 have it both ways with you. We trusted the
25 Manitowoc people, they were skilled. They were

1 honest. They were the best available evidence
2 technicians.

3 But we also had somebody watching. We
4 were short of manpower. We needed them. But, in
5 the first search of Steven Avery's -- first
6 lengthy search of Steven Avery's house, on the
7 evening of November 5, we got enough people that
8 two of them can be taking photos. Two of them
9 can be taking photos, in this little trailer, as
10 you heard. You hear the State trying to have it
11 both ways, here.

12 And in sort of getting at the bias that
13 would drive a police officer, potentially, to
14 plant evidence, it's this -- it's this need, this
15 belief that he is not really innocent. He's
16 guilty, he's got to be guilty. It's what you
17 hear from Detective Jacobs and Detective Remiker,
18 it's that quality. It's the sense that this is
19 where this is going, three hours in, when all we
20 have got is the car, on a big property with a
21 whole lot of other people there.

22 It's the -- After five weeks of evidence
23 and 501 exhibits, it's the State standing up and
24 telling you it's clear. What in the world is
25 clear and simple when it takes five weeks and 501

1 exhibits to try to show. And whatever this is,
2 whatever, whichever way you come out, this case
3 isn't clear and simple.

4 And that's where the civil lawsuit feeds
5 in. It's not that it feeds in with bad cops. It
6 feeds in with good cops, in the sense that it
7 erodes, fundamentally, the sense of identity, we
8 get the bad guys, we don't get the good guys.

9 And here it is, they got it wrong, that
10 department got it wrong. Not only do they get it
11 wrong, but the right guy is still out there and
12 he commits another rape, Gregory Allen. This
13 goes to my identity, if I wear that same uniform.
14 Even if I'm aligned with these people, as you
15 hear the sort of reaction from the prosecutors to
16 this.

17 And now, you know, since -- since he
18 really couldn't have been that innocent, he's got
19 to be guilty of this one. He must be the right
20 guy this time. So you -- you know, nobody means
21 to do this, but you start looking around things
22 that are inconvenient, that don't quite square up
23 with the theory that he did it.

24 One example, and one example only, from
25 the blood, Teresa Halbach's blood in her own car.

1 Kucharski, talked about sitting on this bed, and
2 actually facing towards the door, his feet, I
3 think the testimony was, were facing where the
4 key ends up when Lieutenant Lenk exits the room
5 and comes back. Don't you have to kind of ask
6 yourself the question, how did the key get there?

7 If it was planted, how did that key get
8 there? Did Lieutenant Lenk, as he's walking
9 here, throw it? Did he kind of lob it over
10 Mr. Kucharski. Well, that's ridiculous.
11 Absolutely ridiculous. And although all three of
12 these officers, and in fact the prosecution team,
13 would have preferred, obviously, that the key
14 wouldn't have been found in this way, it was.
15 All right.

16 Cases come to you how they are. And
17 again, under the microscope of a case of this
18 magnitude, there is going to be some human
19 factors. And there's going to be some things
20 that you are going to have to wrestle with. And
21 this is one of those things. I'm not going to
22 short change you on that particular case.

23 And you may take a long time in deciding
24 whether or not that key is significant, or
25 whether the key is not significant. But let me

1 ask you, just kind of for the sake of talking, as
2 Mr. Strang wanted to talk with you rather than at
3 you, I certainly have a style that I would prefer
4 that as well. Let's assume they never found the
5 key. Let's assume this key isn't part of this
6 case at all.

7 Let's assume Mr. Strang's theory is
8 correct, that these cops aren't trying to plant
9 an innocent person, but trying to make sure that
10 a guilty person is found guilty. Well, can't you
11 then, with that argument, set the key aside? Do
12 you have the ability, as a jury, to set that key
13 aside, if in fact it doesn't matter whether or
14 not Mr. Avery is guilty or not guilty in this
15 analysis? Can you set that aside and decide is
16 there enough other evidence, or is the key the
17 only thing that points to Mr. Avery?

18 Well, if this was a CSI case, one of
19 those cases on TV where sometimes that key, or
20 sometimes one little piece of evidence like that
21 may decide the guilt or innocence, it would make
22 a difference. But that key, in the big picture,
23 in the big scheme of things here, means very
24 little. All right.

25 Now, I'm telling you that not because I

1 lot, if you are like me sometimes and I forget
2 where I have parked my car.

3 Is that why Mr. Avery unhooked the
4 battery, so that the citizen searchers that he
5 knew were coming couldn't just press a button and
6 of the 40,000 (sic) cars, could walk right to
7 that. That's possible. All right. That's an
8 inference, a logical inference, that could be
9 drawn. But that's speculating, and that's not
10 what I'm going to do. That's not what I'm asking
11 you to do. I'm not asking you at all in this
12 case to speculate. I'm simply answering
13 Mr. Buting's question.

14 Where was Teresa killed. This is a easy
15 answer, or at least it is an answer that is
16 directed by all of the physical evidence in this
17 case. Teresa Halbach, as we know, came to the
18 trailer of Steven Avery. We know that they
19 completed their transaction. How do we know
20 that, because the book and the bill of sale was
21 given to Mr. Avery. That's something that, as
22 you heard, happens at the end of the transaction.
23 That's sitting on Mr. Avery's computer desk.

24 We know sometime later, that is, we know
25 sometime in the future, a bullet is found in this

1 exact area, has Teresa Halbach's DNA on it. All
2 right. The inference, and this is an inference
3 that I'm asking you to draw, is that Teresa
4 Halbach was killed in the garage. She was killed
5 in Steven Avery's garage.

6 Now, we have heard testimony about
7 luminal finding blood, that is a reagent, a
8 chemical that is used by the Crime Lab is spread
9 out. There's two things that are most reactive
10 with luminal, one is human blood and the other is
11 bleach. Bleach coincidentally is the one thing
12 that eats up or destroys DNA.

13 We have heard about just to the left and
14 just to the back of this tractor, about a three
15 to 4 foot area, large area that lit up or glowed
16 very brightly. Mr. Ertl testified about that.
17 He was the person who processed that area. I'm
18 asking you to infer that Mr. Avery cleaned up
19 this area with bleach.

20 Now, you knew that inference, or that
21 suggestion from the State, I think, was coming.
22 We have put in the bleach. We have talked about
23 the luminal. We have gotten expert testimony
24 from Mr. Ertl that the two things that light up,
25 it wasn't blood, but it was, in fact, bleach.

1 one is that the defendant killed her and burned
2 it, and the other one, I guess, the defense wants
3 you to just come up with on your own.

4 That brings me to the conclusion, or the
5 last question, and that's, did the cops kill
6 Teresa Halbach. Again, the defense says no. But
7 if the cops had her blood, if the cops had her
8 bones, and before the 5th, if the cops knew she
9 was dead, let me say that again, if before the
10 5th the cops knew that Teresa Halbach was dead,
11 they were either told that by the real killer, or
12 they killed Teresa Halbach.

13 You have got to be willing to accept one
14 of those scenarios. And I don't think you can.
15 And I don't think you should. And I don't think
16 that the evidence points to that at all.

17 Mr. Strang, in his opening statement,
18 promised you what the defense was going to be.
19 Mr. Strang told you that it's no surprise that
20 the blood from an unsecured vial in the box in
21 the Clerk's Office, that Lieutenant Lenk examined
22 in 2002, ends up in the Toyota. At the start of
23 the case, that was what the defense was. That's
24 what the defense theory was. That's what the
25 defense said their theory of defense and what the

1 That's not reasonable. That's not a
2 reasonable doubt. Reasonable doubts are for
3 innocent people. Reasonable doubts are things
4 that juries adopt when all the evidence points to
5 that. And this planting, this vial planting
6 defense, even from a common sense standpoint, is
7 absolutely ludicrous.

8 But what we were able to do, what you
9 heard, is scientifically exclude that vial of
10 blood. You heard from Dr. LeBeau, who testified
11 that this blood is loaded with EDTA and this
12 blood, and this blood, and this blood, have no
13 detectable levels of EDTA. And so instead of
14 calling all of the people with keys and with
15 codes, and people in the Clerk's Office, and who
16 might have seen Lieutenant Lenk or Colborn, or
17 all those kinds of things, instead of doing it
18 that way, we only had to call one witness, who
19 scientifically could tell you that there is
20 absolutely no way that that vial of blood was
21 used to plant.

22 In fact, that very question was asked of
23 Dr. LeBeau, the head of the toxicology section,
24 or the unit at the FBI. And he said, by a
25 reasonable degree of scientific certainty, this

1 vial of blood is excluded, that means it's not
2 it, it's excluded as the source of those three
3 bloodstains.

4 Now, why is that important. Lieutenant
5 Lenk and Sergeant Colborn, as I mentioned
6 earlier, are good, decent, honest cops, sworn to
7 uphold the law. Kinds of officers Manitowoc
8 citizens should be proud to have on your police
9 force. They are the kinds of guys that you want
10 investigating cases for you, for Manitowoc
11 County. And again, they are not just some cops,
12 they are your cops, that's why a Manitowoc jury
13 decides this case.

14 This isn't just two guys, it's Jim Lenk
15 and it's Andy Colborn. And when you accuse
16 police officers of official misconduct, that's
17 serious business. Mr. Strang correctly predicted
18 that there would be some anger about this issue,
19 coming from the prosecution side, and there is.

20 Let me tell you why. Their livelihood,
21 their reputations, their families, everything in
22 their 20 plus years of law enforcement are on the
23 line, when some lawyer accuses them of
24 misconduct. Not just any misconduct, but
25 planting evidence in a murder case. All right.

STATE OF WISCONSIN)
) ss
COUNTY OF MANITOWOC)

I, Diane Tesheneck, Official Court Reporter for Circuit Court Branch 1 and the State of Wisconsin, do hereby certify that I reported the foregoing matter and that the foregoing transcript has been carefully prepared by me with my computerized stenographic notes as taken by me in machine shorthand, and by computer-assisted transcription thereafter transcribed, and that it is a true and correct transcript of the proceedings had in said matter to the best of my knowledge and ability.

Dated this 22nd day of January, 2008.

Diane Tesheneck, RPR
Diane Tesheneck, RPR
Official Court Reporter